

- (c) Between \$100,000 and \$250,000.
- (d) Between \$250,000 and \$500,000.
- (e) Between \$500,000 and \$1,000,000.
- (f) Between \$1,000,000 and \$2,000,000.
- (g) Between \$2,000,000 and \$5,000,000.
- (h) Between \$5,000,000 and \$10,000,000.
- (i) Between \$10,000,000 and \$20,000,000.
- (j) Between \$20,000,000 and \$50,000,000.
- (k) Between \$50,000,000 and \$100,000,000.
- (l) More than \$100,000,000.

#### **836.206 Liquidated damages.**

The contracting officer may include a liquidated damages provision in a construction contract when the criteria of FAR 11.501 and 811.501 are met. If partial performance may be accepted and used to the advantage of the Government, the contracting officer must include the clause substantially as set forth in 852.211-74, Liquidated Damages, in addition to the clause set forth in FAR 52.211-12.

#### **836.209 Construction contracts with architect-engineer firms.**

(a) When the contracting officer considers it necessary or advantageous to award a contract for construction of a design-bid-build project, as defined at FAR 36.102, to a firm or person that designed the project, the contracting officer must request prior approval from one of the following:

(1) The facility or VISN director, as appropriate, or, for National Cemetery Administration contracts, the Director, Technical Support Service, for contracts involving nonrecurring maintenance (NRM) funds.

(2) The Director, Office of Construction and Facilities Management, for contracts involving construction funds.

(b) The contracting officer must furnish complete justification in the request.

(c) This section does not apply to design-build contracts, as defined at FAR 36.102.

#### **836.213 Special procedures for sealed bidding in construction contracting.**

##### **836.213-4 Notice of award.**

The contracting officer must provide to the contractor a notice of award (letter of acceptance) for any contract award in excess of \$25,000.

##### **836.213-70 Notice to proceed.**

(a) The contracting officer must provide construction contractors with a written notice to proceed for the work. A notice to proceed will normally be sent only after the contractor has provided performance and payment bonds or payment protection and the completed contract forms, where applicable, and the contracting officer has accepted them. If the urgency of the work or other proper reason requires the contractor to begin work immediately, the contracting officer may include in the award letter a notice to proceed, with the reservation that payments are contingent upon receipt and approval of the required bonds or payment protection.

(b) If the contract provides for liquidated damages, the contracting officer must send the notice to proceed by certified mail, return receipt requested, or any other method that provides signed evidence of receipt. The notice to proceed will advise the contractor that the work must be completed within \_\_\_\_ (insert contract time for completion) calendar days from the date of receipt shown on the certified mail receipt card returned by the post office or on the proof of delivery provided by the delivery service.

(c) If the contract does not provide for liquidated damages, certified mail is not required. In notices to proceed for these contracts, the contracting officer must establish a date for completion that takes into consideration the time required for the notice to arrive by regular mail.

(d) At the time the notice to proceed is sent to the contractor, the contracting officer must furnish a copy to the resident engineer or the Chief, Engineering Service.

(e) The contracting officer must file a copy of the notice to proceed with copy A of the contract. When certified mail or other method of certified delivery is used, the contracting officer must attach the certified mail receipt card returned by the post office or the proof of delivery provided by the delivery service to the copy of the notice to proceed. The contracting officer must file copies of the notice to proceed with copies C and D of the contract after the

date of receipt has been established and indicated on the notice to proceed.

## Subpart 836.5—Contract Clauses

### 836.500 Scope of subpart.

(a) The clauses and provisions prescribed in this subpart are set forth for use in fixed-price construction contracts in addition to those in FAR Subpart 52.2.

(b) Additional clauses and provisions not inconsistent with those in FAR subparts 36.5 and 52.2 and those prescribed in this subpart are authorized when determined necessary or desirable by the contracting officer, and when approved as provided in subpart 801.4.

(c) Clauses and provisions that differ from those contained in FAR subparts 36.5 and 52.2 and this subpart, but considered essential to the procurement of VA requirements, shall not be used unless the deviation procedure set forth in Subpart 801.4 has been complied with.

### 836.501 Performance of work by the contractor.

The contracting officer shall insert the clause at 852.236-72, Performance of work by the contractor, in solicitations and contracts for construction that contain the FAR clause at 52.236-1, Performance of Work by the Contractor. When the solicitations or contracts include a section entitled "Network Analysis System (NAS)," the contracting officer must use the clause with its Alternate I.

### 836.513 Accident prevention.

The contracting officer must insert the clause at 852.236-87, Accident Prevention, in solicitations and contracts for construction that contain the clause at FAR 52.236-13, Accident Prevention.

### 836.521 Specifications and drawings for construction.

The contracting officer shall insert the clause at 852.236-71, Specifications and drawings for construction, in solicitations and contracts for construction that include the FAR clause at 52.236-21, Specifications and Drawings for Construction.

### 836.570 Correspondence.

The contracting officer shall insert the clause at 852.236-76, Correspondence, in solicitations and contracts for construction expected to exceed the micro-purchase threshold for construction (currently \$2,000).

### 836.571 Reference to "standards."

The contracting officer shall insert the clause at 852.236-77, Reference to "standards," in solicitations and contracts for construction expected to exceed the micro-purchase threshold for construction.

### 836.572 Government supervision.

The contracting officer shall insert the clause at 852.236-78, Government supervision, in solicitations and contracts for construction expected to exceed the micro-purchase threshold for construction.

### 836.573 Daily report of workers and materials.

The contracting officer shall insert the clause at 852.236-79, Daily report of workers and materials, in solicitations and contracts for construction expected to exceed the simplified acquisition threshold. The contracting officer may, when in the best interest of the Government, insert the clause in solicitations and contracts for construction when the contract amount is expected to be at or below the simplified acquisition threshold.

### 836.574 Subcontracts and work coordination.

The contracting officer shall insert the clause at 852.236-80, Subcontracts and work coordination, in solicitations and contracts for construction expected to exceed the micro-purchase threshold for construction. When the solicitations or contracts are for new construction work with complex mechanical-electrical work, the contracting officer may use the clause with its Alternate I.

### 836.575 Schedule of work progress.

The contracting officer shall insert the clause at 852.236-84, Schedule of